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March 20, 2018

BY FIRST CLASS MAIL

The Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004

Re: In re Gawker Media, LLC, et al., Case No. 16-11700 (SMB)

Dear Judge Bernstein:

As the court will recall, we represent Gizmodo Media Group, LLC (“GMG”), and this communication is written on its behalf. GMG writes to Your Honor after being served yet another complaint (the “Complaint”) by Charles J. Harder (“Harder”) asserting a cause of action (the “Scherick Action”) based upon the pre-sale (and, in this instance, the pre-bankruptcy) publication of an article on a website that, at the time of publication, was operated by Gawker Media, LLC (“Gawker Media”). A copy of the Complaint, which was filed in the Supreme Court for the State of New York, New York County, is annexed hereto as Attachment 1.

Harder’s continued prosecution of the Complaint is in blatant disregard of this Court’s decisions and orders concerning a nearly identical action brought by Harder in the Supreme Court for the State of New York, New York County on behalf of Pregame LLC and Randall James Busack (the “Pregame Plaintiffs”). On December 26, 2017, this Court entered that certain *Order Granting in Part and Denying in Part the Motion of Gizmodo Media Group, LLC to Enforce the Sale Order* [Docket No. 1071] (the “Enforcement Order”), a copy of which is annexed hereto as Attachment 2.¹ Your Honor’s Enforcement Order expressly prohibits the Pregame Plaintiffs from asserting claims against GMG derived from the publication of an article on a website operated by Gawker Media on June 23, 2016, more than 11 weeks prior to the closing of the sale of substantially all of the assets of the above-referenced debtors to GMG (the “Sale Closing Date”).

¹ On December 12, 2017, Your Honor issued that certain *Memorandum Decision Regarding Motion to Enforce the Sale Order* [Docket No. 1063] (the “Memorandum Decision”), a copy of which is annexed hereto as Attachment 3.

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The Complaint asserts similarly unfounded claims against GMG based, yet again, on the pre-sale publication of an article (the "Scherick Article") on a website that, at the time of publication, was operated by Gawker Media. The Scherick Article was published on May 10, 2016, *one month prior to the Debtors' bankruptcy filing and more than 17 weeks prior to the Sale Closing Date*, and the Complaint fails to allege any post-sale conduct by GMG that would result in a "republication" of the Scherick Article.² Notwithstanding the unequivocal language in the Enforcement Order prohibiting the prosecution of a nearly identical case, Harder elected to serve the Complaint on GMG on January 2, 2018, three weeks after the Memorandum Decision was issued and one week after the Enforcement Order was entered. GMG has communicated to Harder's office its desire to resolve the Scherick Action by voluntary dismissal (including via the letter dated March 19, 2018, a copy of which is annexed hereto as Attachment 4).

Before GMG devotes the time and resources required to file another motion to enforce the terms of the Sale Order and the APA (each as defined in the Memorandum Decision), it requests that Your Honor schedule a status conference on this matter.

Respectfully,



Peter M. Gilhuly
of LATHAM & WATKINS LLP

Attachments

CC: Thomas G. Hentoff, counsel for Gizmodo Media Group, LLC
Charles J. Harder, counsel to International Scherick, LLC and Gregory Scherick
Gregg M. Galardi, counsel to the Debtors

² Although Harder has recently indicated that the Complaint may be amended to allege post-sale conduct by GMG that would result in a republication, GMG does not believe that any facts exist that would allow such a claim to be asserted.